

R E M A R K S

In the present Office Action, claims 1-23 were pending before the Office. Of these, claims 1, 12, and 23 were the only independent claims. The Office Action rejected 1-23.

Claims 1-23 were rejected under 35 U.S.C. § 112, first paragraph. Claims 1-23 were rejected under 35 U.S.C. § 112, second paragraph. Claims 1-3, 5, 9, 11, 21-14, 16, 20, 22, and 23 were rejected under 35 U.S.C. § 102(e). Claims 1-3, 6-9, 11, 12-14, 17-20, 22, and 23 were rejected under 35 U.S.C. § 102(e). Claims 4, 10, 15, and 21 were rejected under 35 U.S.C. § 103(a).

No claims have been added, amended, canceled, or withdrawn.

A. CLAIM REJECTIONS UNDER 35 U.S.C. § 112

Claims 1-23 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. For at least the reasons set forth herein, the Applicants respectfully traverse these rejections.

Claims 1, 12, and 23 and their dependencies stand rejected as the Office Action contends the specification lacks support for the feature "determining an amount of memory bandwidth of a network processor allocated among a plurality of data types used to transmit data through a plurality of active ports" as recited in claim 1, for example. The Applicants respectfully submit that a prima facie case of non-enablement has not been established as it has not been shown or even alleged that undue or unreasonable experimentation would be required to practice the claimed invention. 35 U.S.C. § 112, first paragraph "has been interpreted to require that the claimed invention be enabled so that any person skilled in the art can make and use the invention without undue experimentation." *Manual of Patent Examination Procedure ("MPEP")* § 2164.01 Test of Enablement (8th Ed. 2001) (Rev. 6, September 2007). The Office Actions offer no

analysis as to whether one of ordinary skill in the art could make and use the invention without undue experimentation. Rather, the Office Actions make the conclusory statement that claims 1, 12, and 23 and their dependencies are not enabled. The Applicants again submit that support for the above-recited feature may be found throughout the specification, including, for example, on page 10, lines 26-31 of the specification, which recites:

In step 308, the difference between a maximum amount of memory bandwidth (e.g., system memory bandwidth) of the network processor system that may be used by the plurality of data types and the **total amount** of memory bandwidth of the network processor **currently used by the plurality of data types** is determined...

(emphasis added). Applicants respectfully submit that at least this section of the specification enables the above-recited feature.

Claims 1, 12, and 23 and their dependencies stand rejected as the Office Action contends the specification lacks support for the feature "dynamically adjusting the amount of memory bandwidth allocated to at least one of the plurality of data types based on the determinations," as recited in claim 1, for example. The Applicants respectfully submit that a prima facie case of non-enablement has not been established as it has not been shown or even alleged that undue or unreasonable experimentation would be required to practice the claimed invention. The Office Actions offer no analysis as to whether one of ordinary skill in the art could make and use the invention without undue experimentation. Rather, the Office Actions make the conclusory statement that claims 1, 12, and 23 and their dependencies are not enabled. Applicants again submit that support for the above-recited feature may be found throughout the

specification, including, for example, the above-recited portion of the specification (page 10, lines 26-31), and the paragraph bridging pages 11 and 12 of the specification, which recites:

The port activation logic 114 may be designed to determine whether enough memory bandwidth is currently available to transmit Gigabit Ethernet data using a new Gigabit Ethernet port by comparing the value of (C-limit - A-rate - E-rate) with the minimum amount of memory bandwidth that must be allocated to each new active output port 112 used to transmit Gigabit Ethernet data (e.g., G-factor). If the G-factor is less than or equal to the difference between the maximum amount of memory bandwidth currently used by the plurality of data types (e.g., C-limit - **A-rate - E-rate**), **a value indicating enough memory bandwidth is currently available for activating a new Gigabit Ethernet output port (G-avail) is set to TRUE.**

(emphasis added). Applicants respectfully submit that at least these sections of the specification enable the above-recited feature.

For least the above reasons, the Applicants respectfully request that the rejections under 35 U.S.C. § 112, first paragraph be withdrawn.

Claims 1-23 stand rejected under 35 U.S.C. § 112, second paragraph as being indefinite. For least the reasons set forth herein, the Applicants respectfully traverse these rejections.

Claims 1, 12, and 23 and their dependencies stand rejected as the Office Action contends that "[i]t is not clear whether 'the amount of memory bandwidth allocated to at least one of the plurality of data types' refers to the amount of memory bandwidth in line 3, or to the amount of memory bandwidth in line 6 of claim 1." In the response to arguments section of the Office Action, lines 6 and 9 are referenced. The Applicants

respectfully submit that rejection is not sufficiently clear. Line 3 of claim 1 recites in its entirety: "comprising:". Line 6 of claim 1 recites in its entirety: "transmit data through a plurality of active ports". Line 9 of claim 1 recites in its entirety: "and." Accordingly, the Applicants respectfully request withdrawal of the rejection.

Claims 1, 12, and 23 and their dependencies stand rejected as the Office Action contends that "[i]t is further not clear whether 'adjusting the amount of memory bandwidth allocated to at least one of the plurality of data types' means adjusting the amount of memory bandwidth for one data type, then adjusting another amount of memory bandwidth for another data type; or adjusting one memory bandwidth for a plurality of data types - when there are two or more data types." In a previous response, Applicants submitted that this recitation refers to adjusting... memory bandwidth allocated to one or more of each of the plurality of data type. The Examiner has taken the position that "at least one of the plurality of data types" does not have the same meaning as "one or more of each of the plurality of data types." The Applicants respectfully disagree. That is, the Applicants respectfully submit that at least one of a plurality of widgets does have the same meaning as one or more of each of the plurality of widgets.

For at least the above reasons, the Applicants respectfully request that the rejections under 35 U.S.C. § 112, second paragraph be withdrawn.

B. CLAIM REJECTIONS UNDER 35 U.S.C. § 102

Claims 1-3, 5, 9, 11-14, 16, 20, 22, and 23 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,560,231 to *Kawakami et al.* (hereinafter "*Kawakami*"). For at least the reasons set forth herein, the Applicants respectfully traverse these rejections.

As noted earlier in prosecution, Applicants' claims are directed towards sharing **network processor** memory bandwidth among multiple ports and/or data types transmitted over the ports. *Kawakami* appears to discuss sharing bandwidth of a virtual pipe among many virtual connections and quality classes, and not sharing network processor memory bandwidth.

Independent Claim 1 of the present application recites, inter alia, "determining an amount of memory bandwidth of a network processor allocated among a plurality of data types used to transmit data through a plurality of active ports." Independent Claims 12 and 23 recite, inter alia, "port activation logic... to: determine an amount of memory bandwidth of the network processor allocated among a plurality of data types used to transmit data through a plurality of active ports." Applicants have been unable to find any mention whatsoever of **determining memory bandwidth of a network processor** in *Kawakami*. Thus, *Kawakami* cannot properly be relied upon for teaching or suggesting every feature of independent Claims 1, 12, or 23. Accordingly, the Applicants' respectfully request that the rejections of Claims 1-3, 5, 9, 11-14, 16, 20, 22, and 23 be withdrawn.

Claims 1-3, 6-9, 11-14, 17-20, 22, and 23 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2004/0017781 by *Alferness et al.* (hereinafter "*Alferness*"). Applicants respectfully traverse these rejections. The Applicants anticipate being able to make an appropriate showing under either 37 CFR 1.131 or 1.132, to eliminate *Alferness* as prior art if necessary. However, Applicants do not believe such a showing is necessary at this time based on the Examiner's untenable rejection, but reserve the right to make such a showing if the Examiner maintains his rejections based on *Alferness*.

Independent claim 1 of the present application recites, inter alia, "determining an amount of memory bandwidth of a network processor allocated among a plurality of data types used to transmit data through a plurality of active ports." Independent Claims 12 and 23 recite, inter alia, "port activation logic... to: determine an amount of memory bandwidth of the network processor allocated among a plurality of data types used to transmit data through a plurality of active ports." Applicants have been unable to find any mention whatsoever of memory bandwidth being allocated among "a plurality of data types" in *Alferness*. Rather, the sections of *Alferness* cited by the Examiner discuss allocation of bandwidth among virtual channels or flows which are logical connections between a source and a destination. Further, the Applicants respectfully submit that different transmission rates do not equate to "a plurality of data **types**." Thus, *Alferness* cannot properly be relied upon for teaching or suggesting every feature of independent Claims 1, 12, or 23. Accordingly, the Applicants' respectfully request that the rejections of Claims 1-3, 6-9, 11-14, 17-20, 22, and 23 be withdrawn.

C. CLAIM REJECTIONS UNDER 35 U.S.C. § 103

Claims 4, 10, 15, and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Kawakami*. Applicants respectfully traverse these rejections. As discussed above, *Kawakami* does not disclose all the features recited in Claims 1 and 12, the base claims from which Claims 4, 10, 15, and 21 variously depend. Therefore, Claims 4, 10, 15, and 21 are patentable over the cited reference and the Applicants respectfully request that the rejection be withdrawn.

D. CONCLUSION

Since the Applicants assert that all the independent claims as amended are in condition for allowance and all remaining claims properly depend from the independent claims, Applicants assert that all claims are allowable.

Applicants do not believe a Request for Extension of Time is required but if it is, please accept this paragraph as a Request for Extension of Time and authorization to charge the requisite extension fee to Deposit Account No. 04-1696. Applicants do not believe any additional fees are due regarding this Amendment. However, if any additional fees are required, please charge Deposit Account No. 04-1696.

Respectfully Submitted,

Dated: October 17, 2007
Tarrytown, New York



Steven M. Santisi
Registration No. 40,157
Dugan & Dugan, PC
Attorneys for Applicants
(914) 332-9081